APPENDIX I.

[Vide answer to starred question No. 19 on page 153.]

(*a*) Yes.

(*b*) Copy of the circular is appended.

(*c*) There has been no deviation.

(*d*) Does not arise.

APPENDIX.

Memorandum No. 25779/E2-60, dated 6th October 1960.

Circuar No. 28 of 1960.

From the Transport Commissioner, Chepauk, Madras, addressed to all Regional Transport Authorities.

[SUBJECT.—*Motor vehicles—stage carriages—Opening of new routes and variation of existing routes—Further instructions—Issued.*
Reference—This office Circular No. 25/56 (*Memorandum No.* 27323/*E4*/56, *dated* 5*th July* 1956).]

In the reference cited, the Regional Transport Officers were instructed to discourage, as far as possible, applications for variations of existing routes if the distance covered by the variation is appreciable—say ordinarily exceeding 5 to 10 miles. Several cases were noticed in which variations involving extension were being allowed piecemeal at frequent intervals thereby circumventing the above instructions. In order to obviate this and with a view to discourage frequent variations, it is considered that there should be a time limit set between one variation and another.

2. The Regional Transport Authorities are, therefore, informed that frequent variation of permits shall be avoided and that the interval between one variation and another in respect of the route covered by a permit shall not be less than 3 years except where the combined length of the extensions involved in the variations does not exceed 10 to 12 miles.

APPENDIX II.

[Vide item IV (1) on page 160.]

(L. A. Bill No. 6 of 1963 as passed by the Assembly)

A Bill to provide for the constitution of a Home Guard in the State of Madras.

BE it enacted by the Legislature of the State of Madras in the Fourteenth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Madras Home Guard Act, 1963.

(2) It extends to the whole of the State of Madras.

(3) It shall come into force at once.

2nd March 1963]

2. *Definitions.*—In this Act, unless the context otherwise requires—

(*a*) "member of the Home Guard" means a person who is appointed as such under section 4;

(*b*) "Government" means the State Government.

3. *Constitution and control of Home Guard.*—(1) The Government may constitute a volunteer body called the Home Guard, every member of which shall exercise such powers, discharge such duties and perform such functions, in relation to the maintenance of services essential to the life of the community, the protection of persons, the security of property and the preservation of public order, as may be assigned to him by the provisions of this Act and the rules made thereunder.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Government may make rules requiring every member of the Home Guard to—

(*a*) serve in aid of the police force and generally to help in the maintenance of the security of the State;

(*b*) help the public during any emergency including flood, fire or epidemic;

(*c*) render nursing and first-aid; and

(*d*) facilitate the maintenance of transport services and the control of traffic and crowds.

(3) Subject to the overall control of the Inspector-General of Police, the Home Guard shall function under the control of the Commissioner of Police in the City of Madras and the Superintendent of Police in a district.

4. *Appointment of members of Home Guard.*—(1) Subject to the provisions of this Act and the rules made thereunder, any person willing to serve as a member of the Home Guard and possessing such qualifications as may be prescribed may be appointed a member of the Home Guard in such manner and by such authority as may be prescribed.

(2) Every member of the Home Guard shall receive on his appointment a certificate in the prescribed form, under the seal of the Commissioner of Police in the City of Madras and the Superintendent of Police in a district, by virtue of which the member aforesaid shall be vested with the powers, functions and privileges of a member of the Home Guard.

(3) Every member of the Home Guard shall receive such training during such hours and for such period as may be prescribed including training in—

(*a*) police duties like control of traffic and crowds;

(*b*) rescue operations, first-aid and firefighting;

(*c*) map reading, fieldcraft, wireless operation and use of firearms.

[2nd March 1963

5. *Period of service and discharge.*—(1) A member of the Home Guard shall be required to serve the Government for such period as may be prescribed but any such member may be discharged from the Home Guard at any time by such authority on such grounds and subject to such conditions as may be prescribed:

Provided that it shall not be necessary for such authority to disclose the ground of discharge if such authority considers such disclosure to be against the public interest.

(2) The order of discharge under sub-section (1) shall be final.

6. *Calling out of Home Guard.*—The Commissioner of Police in the City of Madras and the Superintendent of Police in a district may by order at any time call out the prescribed manner any member of the Home Guard for training or for exercising the powers, discharging the duties and performing the functions assigned to the Home Guard by the provisions of this Act and the rules made thereunder.

7. *Powers, privileges and protection of Home Guard.*—(1) A member of the Home Guard when called out by an order under section 6 shall have the same powers, privileges and protection as an officer of the Police appointed under the Madras City Police Act, 1888 (Madras Act III of 1888), or the Madras District Police Act, 1859 (Central Act XXIV of 1859), as the case may be.

(2) No prosecution shall be instituted against a member of the Home Guard in respect of anything done or purporting to be done by him in the exercise of his powers, or the discharge of his duties, or the performance of his functions as such member except with the previous sanction of the Commissioner of Police in the City of Madras and of the Superintendent of Police in a district.

8. *Control by officers of police force.*—A member of the Home Guard, when called out by an order under section 6 in aid of the police force, shall be under the control of officers of the police force in such manner and to such extent as may be prescribed.

9. *Reinstatement in civil employ of persons called out under section 6.*—(1) It shall be the duty of every employer by whom a person called out by an order under section 6 is employed to grant him such leave as may be necessary and to reinstate him in his employment on the termination of the period during which he has been so called out n an occupation and under conditions not less favourable to him than those which would have been applicable to him had he not been so called out:

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason the reinstatement of such person is represented by the employer

2nd March 1963]

to be impracticable, either party may refer the matter to the prescribed authority and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed, pass an order—

(a) exempting the employer from the provisions of this section, or

(b) requiring him to re-employ such person on such terms as that authority thinks suitable, or

(c) requiring him to pay to such person by way of compensation for failure or inability to re-employ, a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period during which he was called out by an order under section 6.

(4) The duty imposed by sub-section (1) upon an employer to grant leave to such person as is referred to in that sub-section or to reinstate him in his employment shall attach to an employer who, before such person is actually called out by an order under section 6 terminates his employment in such circumstances as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of an order relating to that person under section 6.

10. *Preservation of certain rights of persons called out under section* 6.—When any person called out by an order under section 6 has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue during the period for which he has been so called out and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed.

[2nd March 1963

11. *Pay and allowances.*—(1) Every member of the Home Guard shall, during the period of training or service in the Home Guard, receive from the Government such allowances as may be prescribed.

(2) Where any such member was in any employment immediately before he is called out for training or service by an order under section 6, the employer shall be liable to pay him the pay and allowances as if such member had not been so called out.

(3) If any employer refuses or fails to pay any such member the pay and allowances as provided in sub-section (2), such pay and allowances may, on application by the member to the prescribed authority, be recovered from the employer in such manner as may be prescribed.

12. *Surrender of arms, uniforms, etc.*—(1) Every person who for any reason ceases to be a member of the Home Guard shall within ten days of so ceasing deliver up his certificate of appointment, arms, accoutrements, clothing and other articles supplied to him as a member of Home Guard to the Commissioner of Police in the City of Madras and the Superintendent of Police in a district or to such person and at such place as such Commissioner or Superintendent may specify.

(2) The officer or person receiving under sub-section (1) any certificate of appointment arms, accoutrements, clothing and other articles shall give a receipt for the same to the person delivering such certificate, arms, accoutrements, clothing and articles.

(3) Any Magistrate and, for special reasons recorded in writing, any police officer not below the rank of a Deputy Commissioner of Police or Assistant or Deputy Superintendent of Police may issue a warrant to search for and seize wherever they may be found the certificate, arms, accoutrements, clothing or other articles not delivered up in accordance with the provisions of sub-section (1). Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898 (Central Act V of 1898), by a police officer or if the Megaistrate or the police officer issuing the warrant so directs, by any other person.

(4) Nothing in this section shall be deemed to apply to any article which under the orders of the Commissioner of Police in the City of Madras or the Superintendent of Police in a district has become the property of the person to whom it was supplied in accordance with the rules made under this Act.

13. *Suspension or removal.*—(1) The Commissioner of Police in the City of Madras and the Superintendent of Police in a district may by order in writing suspend or remove from the Home Guard any member of the Home Guard under his control,—

(*a*) who on being called out by an order under section 6 without reasonable cause neglects or refuses—

(i) to obey such order, or

2nd March 1963]

(ii) to exercise the powers, discharge the duties and perform the functions as a member of the Home Guard, or

(iii) to obey any lawful order or direction given to him for the exercise of the powers, discharge of the duties and performance of the functions as member of Home Guard, or

(b) who is guilty of any breach of discipline or of any misconduct.

(2) No order under sub-section (1) shall be passed unless the member of the Home Guard affected by such order is given an opportunity to be heard in his defence.

(3) The suspension or removal of a member of the Home Guard under this section shall be in addition to any penalty to which such member may be liable under any other law for the time being in force.

14. *Appeals.*—(1) An appeal against any order of suspension or removal passed under section 13 shall lie to the Inspector-General of Police, Madras, within thirty days of the date of receipt of such order by the person concerned.

(2) The decision of the Inspector-General of Police in the appeal shall be final.

15. *Power to make rules.*—(1) The Govermennt may make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to generality of the foregoing power, such rules may provide for or regulate the following matters, namely :—

(a) all matters expressly required or allowed by this Act to be prescribed ;

(b) the organization, qualification, appointment, discipline, training, arms, accoutrements and clothing, conditions of servicee, powers, duties and functions of the Home Guard;

(c) the exercise by any police officer or any officer of the Home Guard of the powers conferred by section 6 on the Commissioner of Police in the City of Madras, or the Superintendent of Police concerned in a district;

(d) the exercise of control by officers of the Police over the Home Guard when acting in aid of the police force;

(e) the exercise by a member of the Home Guard of any of the powers exercisable under sub-section (1) of section 7;

(f) the constitution of the authority for the purpose of section 9 and the manner in which such authority may conduct any inquiry under this Act.

(3) All rules made under this Act shall be published in the *Fort. St. George Gazette* and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

[2nd March 1963

(4) Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

16. *Member of the Home Guard to be public servant.*—A member of the Home Guard acting under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

17. *Removal of disqualification.*—(1) A member of the Home Guard shall not be disqualified for being chosen as, or for being, a member of the Legislative Assembly or of the Legislative Council by reason only of the fact that he is a member of the Home Guard.

(2) Notwithstanding anything to the contrary contained in any other law for the time being in force, a member of the Home Guard shall not be disqualified for being chosen as, or for being, a member of any local authority by reason only of the fact that he is a member of the Home Guard.

18. *Repeals.*—The Madras Home Guards Act, 1948 (Madras Act I of 1948) and the Madras Home Guard Ordinance, 1963 (Madras Ordinance 2 of 1963), are hereby repealed.